REMARKS

Claims 1-18 are currently pending in the subject application and are presently under consideration. Applicants' representative thanks the Examiner for courtesies extended during the telephonic interview with Olivia Tsai conducted on May 22, 2006 to discuss the distinction of the invention's random number generator compared to the prior art.

Claims 11 and 16 have been amended herein. A listing of claims can be found on pages 2-6. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I.   Rejection of Claims 1-4 and 11-18 Under 35 U.S.C. §103(a)

Claims 1-4 and 11-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cole *et al.* (US 5,854,901), in view of Cudak *et al.* (US 5,862,452). This rejection should be withdrawn for at least the following reason. Cole *et al.* and Cudak *et al.*, alone or in combination, do not teach or suggest all the limitations of the subject claims.

> To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*. *See* MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

Applicants' claimed invention relates to a system and method of detecting and preventing the use of duplicate IP addresses in order to select and set new IP addresses.

7

(*See* Abstract). In particular, independent claims 1, 12, 15, 17, and 18 recite a similar limitation: *determining whether the probing entity is connected to an active network.* Cole *et al.* and Cudak *et al.*, alone or in combination, do not teach or suggest such novel aspect of the invention as claimed.

Cole *et al.* involves a serverless network protocol that discovers IP addresses for network endpoints. (*See* col. 1, ll. 10-12). The Examiner erroneously contends that Cole *et al.* discloses *determining whether the probing entity is connected to an active network* at col. 5, ll. 1-25. (*See* Office Action dated March 2, 2006, pg. 3). Applicants' representative respectfully disagrees with such contention.

At the indicated passage, Cole *et al.* describes the operation of a router in promiscuous mode. After an ARP request is sent, a router operating in promiscuous mode listens on the network for any response, even those that are not specifically directed to the router. (*See* col. 4, ll. 47-60 and col. 5, ll. 1-25). The cited reference does not teach or suggest *determining whether the probing entity is connected to an active network.* Since the claimed invention verifies whether the probing entity is connected to an active network, a lack of response would more accurately signal the unavailability of an IP address (as opposed to a lack of response because of no network connection). Cole *et al.* fails to capture this distinction because a router operating in promiscuous mode listens for a response without ever *determining whether the probing entity is connected to an active network.*

In addition, claim 4 recites: *the length of the random period of time is generated by examining at least one of a GUID, a physical address, an IP address and a counter.* Cole *et al.* and Cudak *et al.*, alone or in combination, fail to teach or suggest such aspect of the claimed invention.

The Examiner concedes that Cole *et al.* does not disclose *the length of the random period of time is generated by examining at least one of a GUID, a physical address, an IP address and a counter,* but Cudak *et al.* provides such teaching at Figure 1 and col. 3, ll. 22-35. (*See* Office Action dated March 2, 2006, pg. 4). Applicants' representative avers to the contrary.

Rather, Cudak *et al.* relates to low complexity dynamic persistence for random access in a wireless communication system. (*See* Abstract). Cudak *et al.* discusses the

generation of a random number based on a persistence level, which corresponds to the number of peripheral devices in the system. (*See* col. 3, ll. 22-35). Thus, such a random number depends on the *number of peripheral devices* in the system, instead of *at least one of a GUID, a physical address, an IP address and a counter.*

Furthermore, amended claim 11 (and similarly amended claim 16) recites: determining whether a probing entity is connected to an active network comprises: *analyzing network traffic received by a network interface associated with the probing entity; analyzing electrical signals received from hardware associated with the network with which the probing entity desires to interact; and analyzing BPDUs (Bridge Protocol Data Units) received by a network device associated with the network with which the probing entity desires to interact.* By analyzing software communications, hardware communications, and algorithm configuration, applicants' invention confirms that a probing entity is connected to an active network. (*See* pg. 15, line 7 – pg. 16, line 10). Cole *et al.* and Cudak *et al.*, alone or in combination, do not teach or suggest such aspect of the invention as claimed.

While Cole *et al.* discloses a network interface unit to monitor network communications traffic for the source packet that contains the domain name and broadcast address (*See* col. 8, ll. 55-67), the cited reference does not teach or suggest determining whether a probing entity is connected to an active network, let alone by *analyzing network traffic, electrical signals, and BPDUs.*

In view of at least the foregoing, it is readily apparent that Cole *et al.* and Cudak *et al.*, alone or in combination, do not teach or suggest the invention as recited in independent claims 1, 12, 15, 17, and 18 (and associated dependent claims 2-4, 11, 13, 14, and 16). Accordingly, this rejection should be withdrawn.

II.   **Rejection of Claims 5-10 Under 35 U.S.C. §103(a)**

Claims 5-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cole *et al.*, in view of Cudak *et al.*, and further in view of Matsukawa (US 6,925,079). This rejection should be withdrawn for at least the following reason. Claims 5-10 depend from independent claim 1. Matsukawa fails to cure the aforementioned deficiencies with respect to independent claim 1. Therefore, this rejection should be withdrawn.

9

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CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [ALBRP227US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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10